

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:21-cv-00174-FDW-DSC

AMANDA BOARDMAN,
individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

GREEN DOT CORPORATION,

Defendant.

MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Green Dot Corporation (“Green Dot”) moves the Court to dismiss with prejudice this action. In support of this motion, Green Dot shows the Court that the Complaint fails to state a claim upon which relief can be granted. Count I of the Complaint purports to allege a claim under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the “TCPA”), but fails to allege facts showing that Green Dot used an automatic telephone dialing system to contact Plaintiff, as is required for Plaintiff’s purported claim. Count II of the Complaint purports to allege a claim under Section 227(c)(5) of the TCPA but fails to allege facts demonstrating that the text messages at issue in this case were transmitted to a residential phone number, as is required for Plaintiff’s purported claim. Count III of the Complaint purports to allege a claim for violations of 47 C.F.R. § 64.1200(d), but fails for the same reasons as Count II fails and also because there is no private right of action for violations of the regulation. For a more detailed explanation of the grounds for this motion, Green Dot respectfully refers the Court to Defendant Green Dot Corporation’s

Memorandum of Law in Support of Its Motion to Dismiss, which Green Dot is filing with this motion.

WHEREFORE, Defendant Green Dot Corporation respectfully requests that the Court dismiss with prejudice this action.

Respectfully submitted, this 1st day of June, 2021.

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CERTIFICATE OF SERVICE

The undersigned certifies that on June 1, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following: David M. Wilkerson, Esq. (dwilkerson@vwlawfirm.com) and Ignacio Javier Hiraldo, Esq. (ijhraldo@ijhlaw.com).

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